

Income Tax Credit – Wineries and Vineyards Statute

§10–735. Article - Tax General (2013)

NOTE: This Act shall be applicable to all taxable years beginning after December 31, 2012. It shall remain in effect until June 30, 2018, unless further action is taken by the General Assembly.

(a) (1) In this section the following words have the meanings indicated.

(2) “Department” means the Department of Business and Economic Development.

(3) “Qualified capital expenses” means all expenditures made by the taxpayer for the purchase and installation of equipment or agricultural materials for use in the production of agricultural products at a vineyard, or in a winery, including:

- (i) barrels;
- (ii) bins;
- (iii) bottling equipment;
- (iv) canopy management machines;
- (v) capsuling equipment;
- (vi) chemicals;
- (vii) corks;
- (viii) crushers;
- (ix) destemmers;
- (x) fermenters or other recognized fermentation devices;
- (xi) fertilizer and soil amendments;
- (xii) filters;
- (xiii) fruit harvesters;
- (xiv) fruit plants;
- (xv) hoses;
- (xvi) irrigation equipment;
- (xvii) labeling equipment;
- (xviii) lugs;
- (xix) mowers;
- (xx) poles;
- (xxi) posts;
- (xxii) presses;
- (xxiii) pruning equipment;
- (xxiv) pumps;
- (xxv) refractometers;

- (xxvi) refrigeration equipment;
- (xxvii) seeders;
- (xxviii) soil;
- (xxix) small tools;
- (xxx) tanks;
- (xxxi) tractors;
- (xxxii) vats;
- (xxxiii) weeding and spraying equipment;
- (xxxiv) wine tanks;
- (xxxv) wire; and
- (xxxvi) any other items as approved by the Department.

(4) “Vineyard” means agricultural lands located in the State consisting of at least 1 contiguous acre dedicated to the growing of grapes that are used or are intended to be used in the production of wine by a winery as well as any plants or other improvements located thereon.

(5) “Winery” means an establishment licensed by the Comptroller as either a Class 3 or Class 4 winery under Article 2B, §§ 2–204 and 2–205 of the Code.

(b) Subject to the limitations of this section, an individual or a corporation may claim a credit against the State income tax in an amount equal to 25% of the qualified capital expenses made in connection with:

- (1) the establishment of new wineries or vineyards; or
- (2) the capital improvements made to existing wineries or vineyards.

(c) (1) By September 15 of the calendar year following the end of the taxable year in which the qualified capital expenses were paid or incurred, an individual or a corporation shall submit an application to the Department for the credit allowed under this section.

(2) (i) The total amount of credits approved by the Department under this section for a taxable year may not exceed \$500,000.

(ii) If the total amount of credits applied for by all individuals and corporations under this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

- 1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and
- 2. the denominator of which is the total of all credits applied for by all applicants in the calendar year.

(iii) By December 15 of the calendar year following the end of the taxable year in which the qualified capital expenses were paid or incurred, the

Department shall certify to the individual or corporation the amount of the tax credit approved by the Department for the individual or corporation under this section.

(3) To claim the approved credit allowed under this section, an individual or a corporation shall:

(i) file an amended income tax return for the taxable year in which the qualified capital expenses were paid or incurred; and

(ii) attach a copy of the Department's certification of the approved credit amount to the amended income tax return.

(d) If the credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the individual or corporation for that taxable year, the individual or corporation may apply the excess as a credit for succeeding taxable years until:

(1) the full amount of the excess is used; or

(2) the expiration of the 15th taxable year after the taxable year in which the qualified capital expenses were paid or incurred.

(e) The Department and the Comptroller jointly shall adopt regulations to:

(1) implement the provisions of this section; and

(2) specify criteria and procedures for application for, approval of, and monitoring continuing eligibility for the tax credit under this section.

(f) The Comptroller shall adopt regulations providing for:

(1) determination of the amount of the credit under this section in the case of trades or businesses, whether or not incorporated, that are under common control;

(2) pass-through and allocation of the credit in the case of estates and trusts, partnerships, unincorporated trades or businesses, and S corporations;

(3) adjustments in the case of acquisitions and dispositions described in § 41(f)(3) of the Internal Revenue Code; and

(4) determination of the credit in the case of short taxable years.